

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2022/2023 (TERM ID 2210)

UCR2612 – CRIMINAL LAW I

(All Sections / Groups)

13th FEBRUARY 2023

Reading Time: 9:00 a.m. – 9:15 a.m.

(15 Minutes)

Answering Time: 9:15 a.m. – 12:15 p.m.

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of **four pages** with **five questions** in **TWO Parts**.
3. Attempt **FOUR out of FIVE** questions. You are required to answer **ALL** questions in **PART A** whereas in **PART B** you are required to choose **ONE** question **ONLY**. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are only allowed to bring in **CLEAN** and **ORIGINAL COPY** of Penal Code (Act 574) into the exam venue. "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided.

PART A (ALL QUESTIONS ARE COMPULSORY TO BE ANSWERED)**QUESTION 1**

Ahmad, an experienced contractor, has been contracted by the local authority to make repairs for a public footpath in a local park which was a site popular with joggers. The work involved installation of some new drainage systems which requires him to utilize several digging machineries. According to the terms of the contract, he was required to place adequate signages at each site to warn the public of the danger posed by the digging machinery.

One evening, while Uncle Chan, a regular visitor of the park, was jogging on the footpath, he hit one of the machineries used which was parked in the middle of the footpath. As a result, he suffered light injuries and scratches on his palms and knees. A police report of the incident was made by Uncle Chan.

Based on the investigation, Ahmad purposely did not place the warning lights or signages at the site to warn the public of the obstruction. Ahmad also admitted that he did not warn Uncle Chan although he saw Uncle Chan on the footpath, as he was on the site at the time of the incident, and he knew that his failure to warn Uncle Chan would cause injury to him. Ahmad was later charged under section 323 of the Penal Code.

Based on the above:

- a) Discuss Ahmad's criminal liability.

(15 marks)

- b) Assuming that Ahmad is raising the defence of accident, predict the possibility of the defence in Ahmad's situation.

(10 marks)

(Total 25 marks)

Continued

QUESTION 2

In the case of *Shaiful Edham bin Adam & Anor v Public Prosecutor* [1999] 2 SLR 57, it was held that:

“...Prof Chao certified the cause of death as ‘multiple incised wounds on the neck and drowning’, as fluid had been found in the deceased’s pleural cavities. Contrary to what the appellants may have thought at the time, the deceased was still alive when they threw her into the canal. However, she was ‘apparently dead’ and was on the brink of death. Prof Chao’s evidence was that by then, her condition was such that she would have died even without being thrown in the water. The neck wounds alone would have caused death from loss of blood although death would have occurred more slowly over a prolonged period of time. In these circumstances, drowning was an additional cause of death superimposed on the neck wounds and not an intervening cause of death. The neck wounds were still an operating cause and a substantial cause, and death could properly be said to have resulted from them, albeit that some other cause of death was also operating. The neck wounds were not merely the setting in which another cause operated so that it could be said that death did not result from them...”

Based on the case above, and with reference to other authorities, explain the principle of causation, the test applied based on the judgment and the principle of *Novus Actus Interveniens* which is sufficient to break the chain of causation.

(Total 25 marks)

QUESTION 3

Mamat, 16 years old, is a troubled teenager who no longer attends school. He and Siti are good friends and they like to ride Mamat’s motorcycle for sightseeing. One day, while they were riding the motorcycle, Mamat told Siti that he wanted to show his expertise in doing stunts. Siti was worried and prevented Mamat from doing it. However, Mamat just laughed and continued to accelerate his motorcycle. Suddenly, Mamat lifted the handle of his motorcycle and wheeled his motorcycle with one wheel. Siti fell backwards and straight to the road. As a result, Siti suffered bleeding at the head and had to wait for an ambulance to be taken to the hospital. However, the ambulance only arrived an hour later, and when she arrived at the hospital, Siti was pronounced dead due to severe head injuries caused by a road accident.

Mamat was brought before the Court for causing Siti’s death under section 304A of the Penal Code. Mamat argued that the late arrival of the ambulance had caused the death.

Discuss whether Mamat could be liable for the offence and whether he could rely on the defence of accident.

(Total 25 marks)

Continued

PART B (CHOOSE ONE OUT OF THE TWO QUESTIONS)**QUESTION 4**

Andy and Clara were lovers. They stayed together in Clara's apartment. However, they had always engaged in fights as Andy was unemployed and always asked Clara for money. Most of the time, their arguments would end with Clara being beaten by Andy.

In one fateful evening, after having dinner with some of his friends, Andy had returned home in a state of intoxicated. Clara who was frustrated with Andy's attitude had threw a luggage towards Andy and chased him out of her apartment saying that she no longer wants to see Andy in her house and cursed Andy as being useless. Andy went outside and suddenly took a big flower pot outside Clara's door and hit Clara hard on the head. Andy fled away and only knew Clara's fate the next day when police arrested him for killing Clara.

Andy was later charged for murder. He claimed that he hit Clara after Clara's provocations which insulted him as a man. He also claimed that he cannot recall clearly what happened as he was intoxicated at the time of the incident.

Assess Andy's criminal liability.

(Total 25 marks)

QUESTION 5

Alan and Betty were husband and wife for more than 30 years. However, their marriage was at brink as Alan was having extra marital relationship. They decided to end their marriage in mutual term so that they could move on with their lives.

The day before they went to meet their divorce lawyer, Alan and Betty met in a cafe and recollect their memories together. In tears, Betty asked Alan to abort their plan and save their marriage. Alan apologized to Betty for his wrongs but he could no longer be together with Betty. Betty cried aloud and threatened Alan that she would create a scene if Alan determined to leave. When Alan tried to leave the cafe, he was prevented by Betty and there was a struggle between them. Betty hit Alan's chest and head until Alan felt pain and this made Alan angry. Alan suddenly shut Betty's mouth and choked Betty so that Betty would stop making fusses. Café's customers who saw the incident stopped Alan from continuing to strangle Betty. Betty collapsed and Alan immediately took her to the hospital. However, at the hospital, Betty was pronounced dead. The post-mortem result showed that Betty had sustained minimal head trauma followed by an injury to neck structures which was consistent with manual strangulation.

Continued

Alan was arrested and charged for causing death of Betty under section 304 of the Penal Code. However, according to Alan, he was acting in self-defence and that he did not intend to kill Betty.

Assess whether Alan could be liable for the offence and whether his defence could be applicable in this situation.

(Total 25 marks)

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